



State of Idaho Council for the Deaf and Hard of Hearing

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ACCESS TO GOVERNMENT

TITLE II OF THE AMERICANS WITH DISABILITIES ACT REQUIREMENTS FOR GOVERNMENT AGENCIES

COMMUNICATION ACCESS FOR PERSONS WHO ARE HARD OF HEARING OR DEAF

GENERAL PROHIBITION AGAINST DISCRIMINATION

People who are disabled because of a hearing impairment have the right to participate in any and all activities of state, county or local governments. They cannot be excluded, because of their disability.

Qualified individual with a disability is a person with a disability who is eligible for the receipt of services or for participating in any government programs or activities.

Public Entity means –

- (1) Any State, county or local government:
- (2) Any department, agency, or other local government. (28 CFR Part 35.104)

Governments as public entities must allow people who are disabled to have equal opportunity to participate in all activities.

COMMUNICATION REQUIREMENTS

A government agency shall take appropriate steps to ensure that communications with applicants, participants and members of the public who are deaf or hard of hearing are as effective as communications with others. Even if rules, policies, or practices have to be modified or if auxiliary aids and services have to be provided to give them an equal opportunity to participate in, and enjoy the benefits of government agency activities. (28 CFR Part 35.104)

Auxiliary aids and services include qualified interpreters, notetakers, assistive listening systems, telecommunication devices for the deaf and hard of hearing, or other effective methods of making oral communication available to individuals who are deaf or hard of hearing.

Steps must be taken to provide auxiliary aids or services to assure communication access. When an auxiliary aid or service is needed, the government agency shall give primary consideration to the request of the person with a disability unless it can be proven that its

provision would result in alteration of service or undue financial or administrative burden. (28 CFR Part 35.160 and 35.164)

COST OF AUXILIARY AIDS OR SERVICES

A government agency may not charge a particular person or any group of persons with disabilities to cover the costs of auxiliary aids or program changes required by the ADA.

WHAT IS NEEDED TO ASSURE ACCESS

Effective communication access depends on the circumstances and the severity of the person's hearing impairment.

COMMUNICATION ACCESS FOR PERSONS WHO ARE HARD OF HEARING

Government offices are often a nightmare for persons who are hard of hearing. Many are large offices with only partitions between rooms and very difficult for good communication. In order to improve communication it may be necessary to provide assistive listening systems that can be used in offices. Microphones and loud speakers are only effective in a meeting room for a person with a mild hearing loss. More sophisticated systems are needed for a person with a more severe loss. Different assistive listening systems use induction loops, FM systems or infrared systems. Each system has its advantages and disadvantages. The induction system may require that persons have telecoils in their hearing aids. FM and infrared systems usually require the person who is hard of hearing to use a special receiver. FM systems are usually less expensive than infrared but if they are used in more than one room, then the FM systems must be on different frequencies in each room. Infrared systems are more suitable in areas where confidentiality is needed. Costs depend on the room and the number of receivers.

COMMUNICATION ACCESS FOR PERSONS WHO ARE DEAF

Persons who are deaf need to have the information given audibly given to them in another format. In some cases a pencil and paper may be used to communicate. In more complex transactions a Sign language interpreter will be the most common auxiliary aid to assure communication access. Interpreter services required may be American Sign Language, Signed English, or oral (easy to speech/read). The person who is deaf should be consulted to determine the appropriate interpreter services needed.

A more high technology solution for persons who are deaf is the use of computer assisted note taking or transcription projected to a personal monitor or a screen. Information that is being spoken can be read by persons who are deaf and persons who are hard of hearing.

DO GOVERNMENT AGENCIES NEED TO PURCHASE A TELECOMMUNICATION DEVICE FOR THE DEAF (TDD) FOR THEIR OFFICES?

The answer, for some public agencies, is yes. There must be access to offices for persons who use TDDs. The Department of Justice regulations on Telecommunication Devices for the Deaf (TDDs) require that if a government agency communicates with applicants and beneficiaries by telephone it must provide for the use of TDDs or equally effective telecommunications systems, such as the Telecommunications Relay System (TRS), to communicate with individuals with impaired speech or hearing.

The federal regulations at 28 CFR 35.162 require, however, that telephone emergency services, including 911 services shall provide direct access to individuals who use TDDs and computer modems. Thus, emergency numbers cannot rely on the use of the Relay but must be directly accessible by a TDD. The simplest way to provide direct access is to purchase a TDD.

For other than emergency numbers, agencies may use the TRS in lieu of getting a TDD. However, the Department of Justice (DOJ) encourages those agencies that have extensive contact with the public such as public welfare, social service, or vocational rehabilitation offices to have TDDs to insure more immediate access to its services. For agencies that have infrequent contact with the public, the use of the relay may be adequate. DOJ also indicates that the use of the relay may not be appropriate in cases of crises lines pertaining to rape, domestic violence, child abuse and drugs or to organizations where people need confidentiality. Although the relay operators have to sign a statement that they will keep all conversations confidential and they are dismissed if they violate this confidentiality, the fact is that many people are reluctant to call through a third party in sensitive situations including law enforcement situations. The Council for the Deaf and Hard of Hearing encourages all agencies to provide for direct access through the use of an in-house TDD. The TRS is a lot more cumbersome and time consuming than using a TDD with direct access to the individual.

WHERE CAN AGENCIES GET A TDD?

There are a number of companies that manufacture and sell TDDs. The prices range from \$239 for a basic TDD to over \$500 for machines that have printers, memory and built in answering machines. For most offices the basic model costing approximately \$250 would meet the need. The Council is available as a resource to answer questions about TDDs, and other assistive devices and to provide catalogs for ordering, to help with training staff on the use of the TDD, and to answer questions about other accommodations for persons with hearing impairments. Although a dedicated phone line for the TDD is nice, it isn't required. In offices where the phone number is for both voice and TDD calls then when a TDD call comes in the person answering the phone just places the handset on the TDD and begins the conversation using a keyboard on the TDD that is similar to a typewriter or computer keyboard.

HOW CAN CONSUMERS ASSURE ACCESS?

Persons who are deaf or hard of hearing should participate in government programs and request the auxiliary aids and services needed to participate. These requests will focus agency efforts on ADA requirements. If you have questions regarding whether a government agency is complying, ask to speak with the ADA coordinator. The ADA requires that a public entity, make available the name, office address and telephone number of at least one employee that coordinates efforts to comply with and fulfill its responsibilities under the ADA including the investigation of complaints. In addition, the government entity must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that is prohibited by the ADA. (28 CFR Part 35.107)